



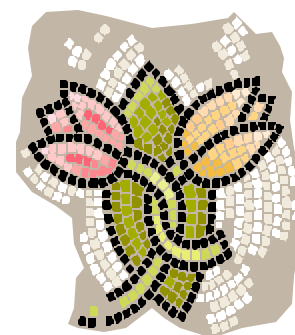
Inner Workings: News & Advice

By: Susan Thurston, Clerk of Court

The countdown is on! The Bankruptcy Court's conversion to a new case management/electronic filing (CM/ECF) system remains in progress although our conversion date has been delayed a few weeks due to bugs in testing. We are currently looking at the end of March, early April time frame. This conversion will include the migration of the court's some 60,000 pending and archived cases dating back to 1987, the year we moved from paper dockets to our first computerized case management system, Bancap. While our legacy system has served us well during the past 15 years, it is not an extremely user friendly system and

lacks flexibility to handle the long term goal of the courts to maintain an integrated and virtually paperless system. In addition to our migration of the Bancap database, we will also be converting all of our existing imaged documents from the paperport format to the standard pdf format universally used on the internet, and adding them to the CM/ECF system. This will result in all of the court's records being truly electronic and integrated into one system. Also once live on the system, the court will no longer maintain paper files of cases filed with the court. For those cases that do not come to the court electronically (which will not be available

to the Bar until approximately July 2003), these documents will be imaged (as they are now) and the paper documents stored in bulk by docketing date for verification purposes only. The official



record of the court will be the electronic CM/ECF record. Access to these records will be available electronically in the Clerk's office or through the Internet with a Pacer ID and password.

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In furtherance of the conversion to CM/ECF, the Court has amended several of its local rules and forms, and has just noticed out for comment several additional rule and form changes that will become effective in March, 2003. Many of these rule and form changes relate to the docketing events and procedures that will be used in CM/ECF. Please become familiar with these changes, which documents are available both at the Clerk's office and on our website. The annual publication of our local rules and forms has just been completed and, if you are not a current subscriber, we have included a copy of the subscription form on the last page of this edition of *On the Docket* for



your convenience. In addition, the complete set of rules and forms are also available on our website.

Lastly, we would like to bid a fond farewell to our electronic court recorder operator, Dana Fernandes, who has recently transferred to the District Court as courtroom deputy to Chief Judge Torres. Most of you know

Dana from her many years in the courtroom, recording the court's judicial proceedings, and handling the transcript requests for the court. Dana's dedication and commitment to excellent public service at the court will be missed by all, however, we know she will serve the District Court well as she did the Bankruptcy Court.

When your business takes you to Judge Torres' courtroom, be sure to say hello to Dana! Joseph Wilkicki, the court's Administrative Officer, has assumed the courtroom duties previously performed by Dana and, given his involvement in the implementation of our digital recording system, we know he is more than capable in handling this new job function. Thank you Joe!

Team Coach

By: Cindy Cory, Courtroom Deputy

Time finds us moving quickly toward Electronic Case Management. The Clerk's office will be going live in a few short weeks and much time and effort has been put toward preparing for the new system. The Work-Flow and Training Committees have compiled a manual of instructions with input and help from all members of the Court, truly a joint effort by all concerned. These instructions when finalized will appear on the Internet and be available to our

customers as well as internal staff.

As we look forward to the time when our Attorneys, Paralegals and other filers begin using the electronic filing system, the Case Managers have a few reminders to make life easier. As filers, you will be doing some of what the Clerk's Office staff has been doing and we have suggestions at this time to help you get ready.



You'll be doing some of what the Clerk's Office staff has been doing . . .

(Take it from us, we've been there!)

1. Before filing petitions, check the creditors against your disk. Print the disk and compare it with the schedules as we now do. A check of the defective pleading box last week showed 15 cases waiting for Motions to Amend

(Continued on page 3)

(Team Coach cont. from page 2)

and the \$20.00 fee to ensure the creditors and schedules match. That means 15 cases were filed where the schedules and matrix did not match. It is an easy error to catch and correct, and eliminating it will save time, work and money.

2. Case numbers and names on signatures pages is a requirement by Local Rule 1005-1(a). Filers will be uploading their own documents in the future, replacing the imaging done now by the Clerk's Office. The Clerk's Office staff has already ceased the practice of writing case names and numbers on pleadings where they are missing. Filers will want to check all documents to make sure captions and case numbers appear where required. Amended and late-filed schedules, as well as signature pages, are often lacking case numbers. Offices should have a procedure in place to ensure documents are correctly prepared and reviewed before they are filed.

3. Deadlines. When documents are missing, filers have in the past received Notices of Intent to Dismiss or Orders to Show Cause. Once the court is live on CM/ECF, failure to file



Read the 6 helpful hints when filing in the Clerk's Office.

the *creditor matrix* will result in a *Notice of Missing Documents and Notice of Dismissal If Documents are Not Timely Filed* with a 2-day deadline. Bankruptcy petitions filed without required schedules and statements will generate the same Notice with a 15-day deadline. ***Cases will now be automatically dismissed after the deadline expires, without further notice, for failure to timely file the required bankruptcy documents.***

4. Another common error is the filing of pleadings in a case that has been closed. Our cases are closed soon after the discharge enters and filers should check to be sure their case is still open before filing motions. The defective pleading box recently had 5 pleadings waiting for the \$155.00 reopening fee and required motion to reopen.

5. Good news -- once the court is live on CM/ECF, only original documents need to be filed. Since the electronic record will be the official record of the court, we will no longer maintain paper file folders or require additional copies of documents filed.

6. More good news -- we have an outstanding training staff busy sharpening their skills by training our internal Clerk's Office staff. When we begin training the Bar this summer, you will be in good hands and we thoroughly expect it will be a positive training experience for all involved.

US Bankruptcy Court's E:Mail Alert

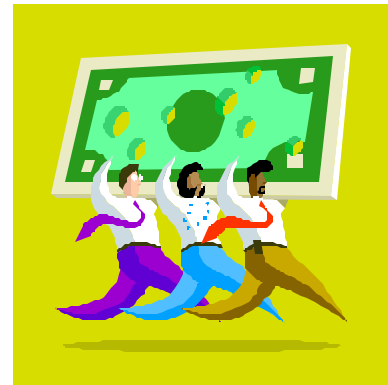
REMINDER: Sign up for the court's e:mail alert system to get the newest updates to court operations, website changes, and court decisions. Log on to our website www.rib.uscourts.gov, on the left side, click on *QuickLinks*, then click on *sign up for email updates* and enter your information.

Unclaimed Funds at the Court

By: April Elderkin, Financial Administrator

Many of you may or may not know about the Unclaimed Funds held in the Court's Registry Account. These funds are deposited by case trustees whenever they are unable to locate the correct owner. The court maintains a list of creditors and sometimes debtors with money owed to them. This list is available on our web-site under the heading **Court Resources/Unclaimed Funds**. You may search by individual creditor or debtor name, or you may search our entire database. Interestingly, many times well known creditors have

money owed to them but are unaware of it! To recover any unclaimed funds owed to you or your client, you must comply with Local Bankruptcy Rule 3011-1 and may download the necessary forms directly from our web-site. The process of filing unclaimed funds takes approximately 23 days with all original documents filed with the court and a copy filed with the US Attorney's Office. If you have specific questions about how to recover unclaimed funds, contact the court's Financial Administrator at 528-4477, ext. 42.



It only takes a moment to search our unclaimed funds database and you or someone you know may find lost money owed to you!

Recent Court Decisions

By: Jonathan Calianos, Esq. , Career Law Clerk

Here is a short digest of some noteworthy opinions from the Court. As always, the full text of Court opinions are available at our web site www.rib.uscourts.gov.

Student Loan Dischargeability... All or Nothing?

The Case: *Lamanna v. EFS Services, Inc. (In re Lamanna)*, 285 B.R.347 (Bankr. D.R.I. 2002).

Short Answer: The Debtor may seek a partial discharge of student loan obligations in certain circumstances.

The Debtor entered into twenty-four student loans over various years to assist her in financing the cost of obtaining a Ph.D. The aggregate balance of the unconsolidated loans at the time of trial exceeded \$148,000 and the



Debtor, who was forty-nine, earned a gross income of \$49,875. The Court found that while § 523(a)(8) does not allow a single loan to be partially discharged, individual educational loans may be discharged by looking to all of the Debtor's student loans and applying the undue hardship analysis to each loan, separately.

(Continued on page 5)

rately. In reviewing the Debtor's financial circumstances, the Court found that the Debtor could pay a total of \$516 per month toward her student loan obligation for a period of seventeen years-- the period of the Debtor's productive work life before her planned retirement. The Court ordered the parties to go through each loan obligation chronologically, starting with the oldest loan first to determine which loans could be paid in full using the \$516 figure. When the parties reached a point where there were insufficient funds to pay in full a given loan according to its terms, that loan and all subsequent loans were determined to be discharged.

Is the Rhode Island Tax Sale Statute, R.I. Gen. Laws § 44-9-1 et seq, Unconstitutional?

The Case: *Pontes v. Lapatin (In re Pontes)*, 280 B.R. 20 (Bankr. D.R.I. 2002)

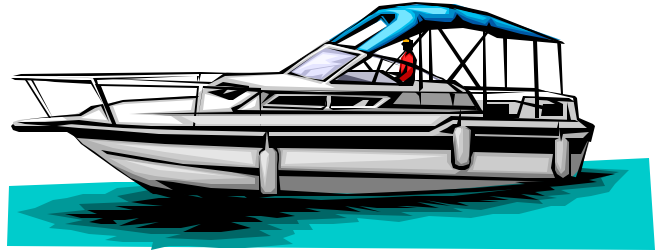
Short Answer: YES, because the Rhode Island tax sale statute violates the Federal Due Process Clause of the Fourteenth Amendment by failing to provide meaningful notice of the right to redeem property after a tax sale.

In August 1998, the Providence County Tax Collector sold the Debtor's home to recover delinquent taxes due on the property. Prior to the sale, the Debtor received, via certified mail, a copy of the tax sale notice which informed him of the impending sale but failed to explain to the Debtor that he had a statutory right to redeem the property following the sale and the procedures available to exercise such a right. The Debtor received no other notices after the sale until approximately one year later when the tax sale purchaser filed a petition in Superior Court to foreclose the Debtor's right of redemption. Two months later the Debtor filed a Chapter 13 bankruptcy petition and an adversary proceeding challenging the constitutionality of the tax sale procedure. The Court found that the right of redemption is a significant property interest protected by the Fourteenth Amendment and failure to provide notice of this interest as part of the tax sale procedure deprived the Debtor of this interest without due process.

Can a Boat be Classified as a Motor Vehicle and Claimed Exempt Under R.I. Gen. Laws § 9-26-4(13)?

The Case: *In re Barbera*, 285 B.R. 355 (Bankr. D.R.I. 2002)

Short Answer: No.



The Debtors filed a joint petition under Chapter 7 and elected the Rhode Island State Law exemptions. The Debtors attempted to exempt a cabin cruiser under R.I. Gen. Laws § 9-26-4(13) which exempts from attachment: "Any and all motor vehicles owned by the debtor not to exceed an aggregate total of ten thousand dollars (\$10,000)." It was undisputed that the boat was used for business, recreation and transportation purposes. The Court reviewed how the Rhode Island Legislature used the term "motor vehicle" in other statutes and determined that when used in Rhode Island Law, "motor vehicle" only refers to vehicles that travel on land. The Court sustained the Trustee's objection to the Debtors' claimed exemption.



New Case Number Assignments for Case Managers

Effective on “GO LIVE” Date

A change in case number assignments will occur when the court is live on CMECF (end of March/ beginning of April, 2003). To determine which Case Manager is assigned to a particular *Bankruptcy Case or Adversary Proceeding*, please look at the last two numbers of the case number. For example, 03-100**27** pertains to Jennifer, and 02-100**97** to Linda. The grid below illustrates the new assignments:

<i>Case Manager</i>	<i>CMECF Case Assignment System</i>	<i>Means Cases Ending With...</i>
Carolyn	00 through 09, 90	00, 01, 02, 03, 04, 05, 06, 07, 08, 09; and 90
Debby	10 through 19, 91	10, 11, 12, 13, 14, 15, 16, 17, 18, 19; and 91
Jennifer	20 through 29, 92, 99	20, 21, 22, 23, 24, 25, 26, 27 , 28, 29; and 92, 99
Holly	30 through 39, 93	30, 31, 32, 33, 34, 35, 36, 37, 38, 39; and 93
Amy	40 through 49, 94	40, 41, 42, 43, 44, 45, 46, 47, 48, 49; and 94
Christine	50 through 59, 95	50, 51, 52, 53, 54, 55, 56, 57, 58, 59; and 95
Cindy	60 through 69, 96	60, 61, 62, 63, 64, 65, 66, 67, 68, 69; and 96
Linda	70 through 79, 97	70, 71, 72, 73, 74, 75, 76, 77, 78, 79; and 97
Florence	80 through 89; 98	80, 81, 82, 83, 84, 85, 86, 87, 88, 89; and 98

You may wish to keep this chart as a reference until you and your support staff are comfortable with the new case assignment convention. This information is also posted on the court internet site at www.rib.uscourts.gov under **Court Information**.

Rhode Island Bankruptcy Court 2002 Annual Report

By: Susan Thurston, Clerk of Court

The year 2002 was an exciting and energetic one. Much of the activity of the court centered around the upgrade, enhancement or replacement of its numerous automation systems. In April, the court converted its e-mail and calendaring system from Microsoft Exchange to Lotus Notes. Throughout the summer and fall, members of the court worked in partnership with the District Court, Probation Office and Administrative Office to convert the district's financial programs over to the judiciary's Financial Accounting System for Tomorrow, affectionately known as FAS₄T. Conversion to the new financial system was completed successfully in November.

Our greatest challenge this year has been the court's preparation for conversion of our existing case management system, known as Bancap, to the judiciary's new case management and electronic filing system, CM/ECF. Implementation efforts began in March 2002, and throughout the summer of 2002, more than twelve members of the Clerk's office and chambers staff traveled to San Antonio, Texas for training on the CM/ECF system including systems administration, SQL, applications, dictionary and train the trainer. Numerous internal

committees and work groups have been created to manage the multitude of tasks and functions related to the migration to this new system. The court's internal "go live" date for conversion from Bancap to CM/ECF is scheduled for late March / early April, 2003, and will involve the migration of some 60,000 cases to this new system. In preparation for the electronic filing component of CM/ECF, the court amended its local rules and forms effective December 1, 2002, and published a new local bankruptcy rules and forms book.

In 2002, the court substantially updated its Intranet web-site to provide on-line access by employees to internal operating procedures and departments including human resources, travel, procurement, training, calendars and CM/ECF. Our Internet web-site continues to serve as a valuable resource tool for members of the Bar and the public, and is updated regularly with the latest changes at the court. Our e-mail alert system now has over 130 subscribers and is a tremendously useful vehicle for timely communicating with the public on important changes at the court.

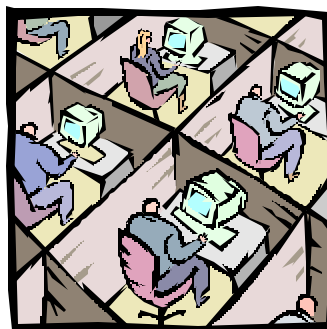


Getting ready for our attorney CM/ECF training with 8 new computer workstations in our training room.

The case query section of the website contains over five years of imaged documents available for inspection by the public, together with related docket information and reports.

In the area of renovations, the bankruptcy judge's conference room enlargement was completed and finishing touches to the courtroom including the hanging of new window treatments and installation of new carpeting were also completed. To facilitate the implementation of CM/ECF, the court converted an existing mail/copy room to a court training room, with eight workstations, overhead multimedia projector and teaching podium. Our automa-

tion department also received a face lift with the addition of modular cubicles, built in cabinets, bookshelves and desks. In addition, in response to the na-



(Continued on page 8)

(Annual Report cont. from page 7)

tional Anthrax scare, the court created an internal mail room complete with floor to ceiling panels, proper safety equipment and cleaning supplies.

Further enhancements to the courtroom evidence presentation system included light pens and tablets for annotations of electronic evidence and installation of a portable digital recording system (via laptop) which serves as a backup system as well as use for recording proceedings outside the courtroom environment.

2002 marks the fourth year of production of, *On The Docket*, our quarterly newsletter, which is a collaborative effort by all departments of useful tips, tricks and information for doing business with the bankruptcy court.

The bankruptcy court staff, although small in number, is dedicated to the idea of giving back to the community. A

group of six employees is involved in the federal mentor program sponsored by the Rhode Island Federal Executive Council, and contribute an hour each week to mentoring children in local Providence schools. During Thanksgiving, the staff at the court donated five abundant food baskets to a local charity coordinating families in need. Similarly, for Christmas, we again participated in the "Adopt-A-Family" program, donating toys, clothes, housewares and gift certificates to another needy family.

During the latter part of September, the court held its eighth annual employee recognition program, which provided a wonderful opportunity to reflect on the court's numerous accomplishments throughout the year and to reward those particular individuals who demonstrated outstanding performance. In addition, during national Public Service Recognition week in May, Administrative Assistant Ann McGloshen was awarded the 2002 John H. Chafee Humanitarian Award by the Rhode Island Federal Executive Coun-

cil for her outstanding work serving the American Baptist Church and its ministries.

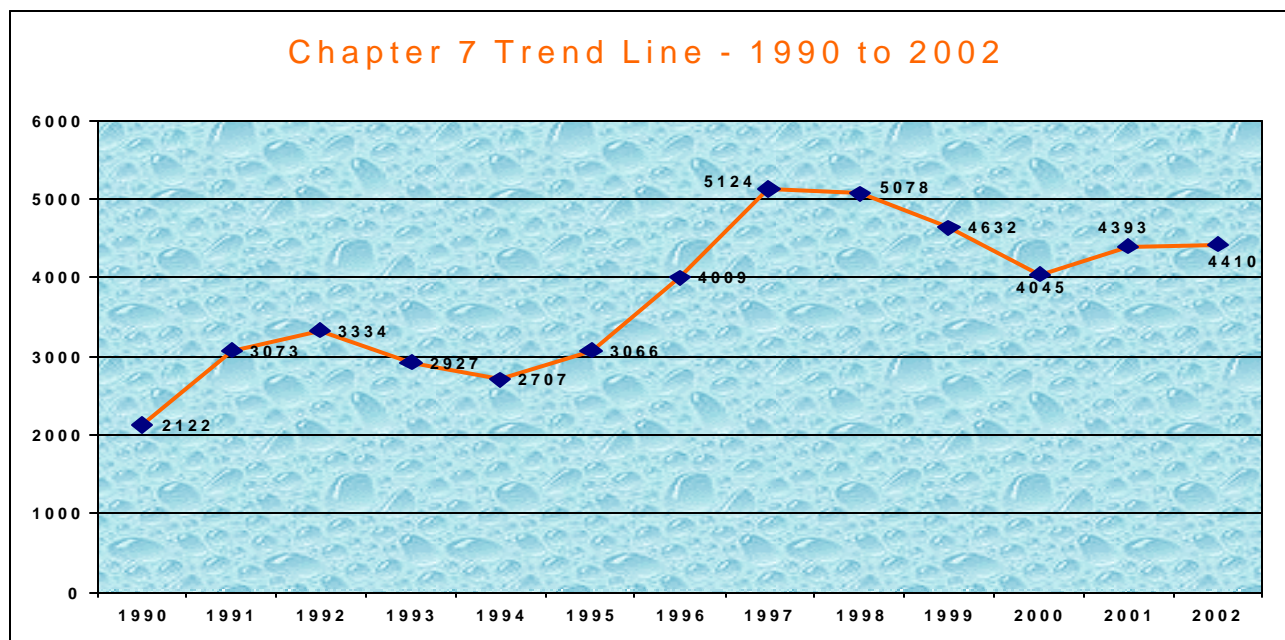
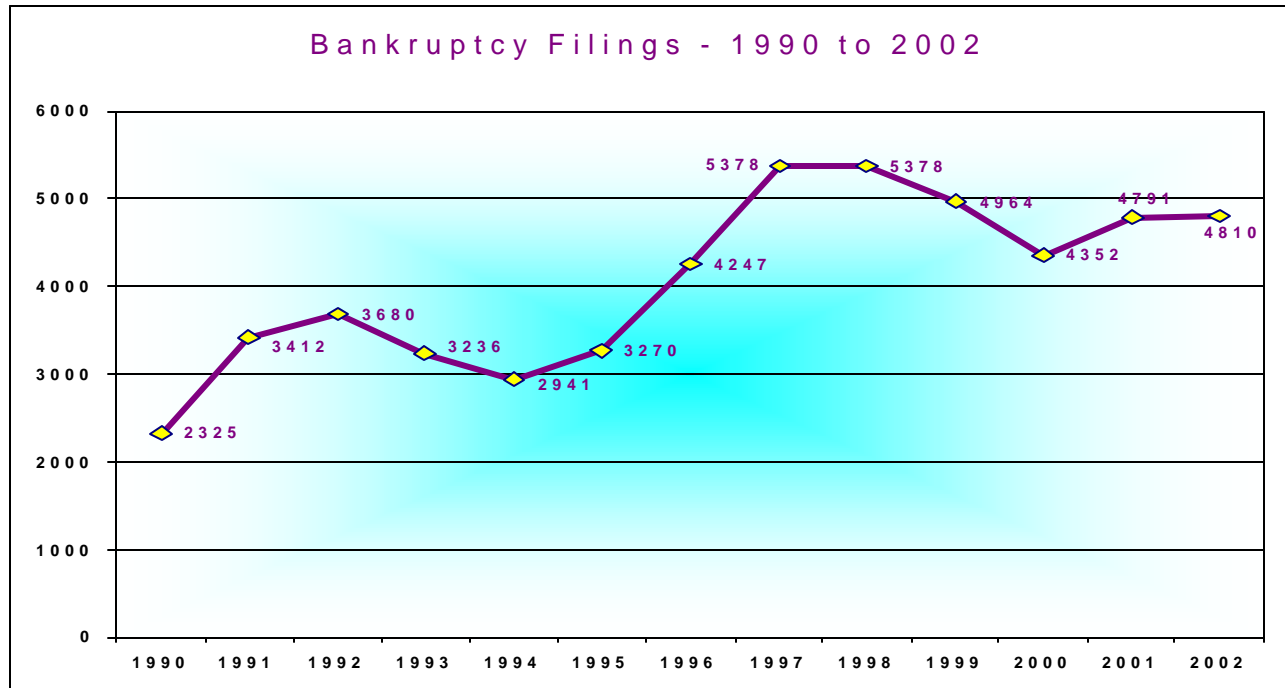
For the period October 1, 2001 through September 30, 2002, the court experienced a modest 1.2 percent increase in overall case filings in comparison to filings for that same period in 2001. For the second year in a row, the largest percent increase was in Chapter 13, attaining a six percent (6%) increase, followed by a slight one percent (1%) increase in Chapter 7. Both Chapter 11 and Adversary Proceeding filings saw a steep decline of sixty-seven percent (67%) and twenty four percent (24%), respectively. The median disposition time for a Chapter 7 case was 3.6 months, 54 months for a Chapter 13 case, and 6 months for an Adversary Proceeding. The average age of the court's pending caseload breaks down as follows: 6.3 months for Chapter 7 cases, 20.3 months for Chapter 13 cases, 19.6 months for Chapter 11 cases (a 53% reduction over last year) and 14 months for Adversary Proceedings.



Clerk's Office Closings . . .

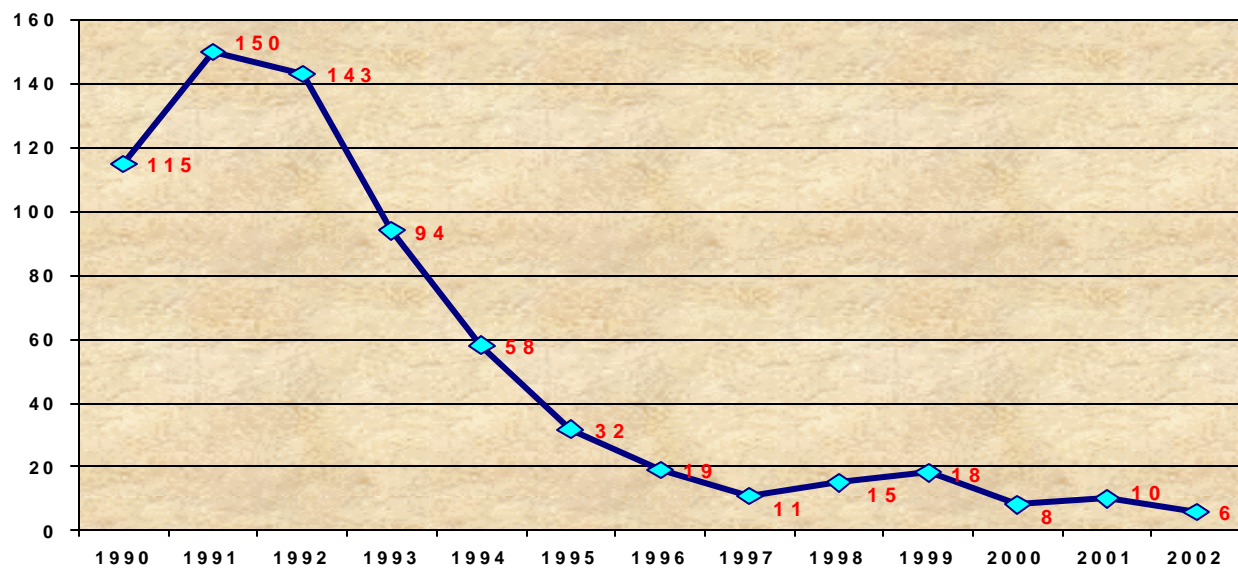
Monday, May 26, 2003 in observance of Memorial Day

2002 Bankruptcy Trends

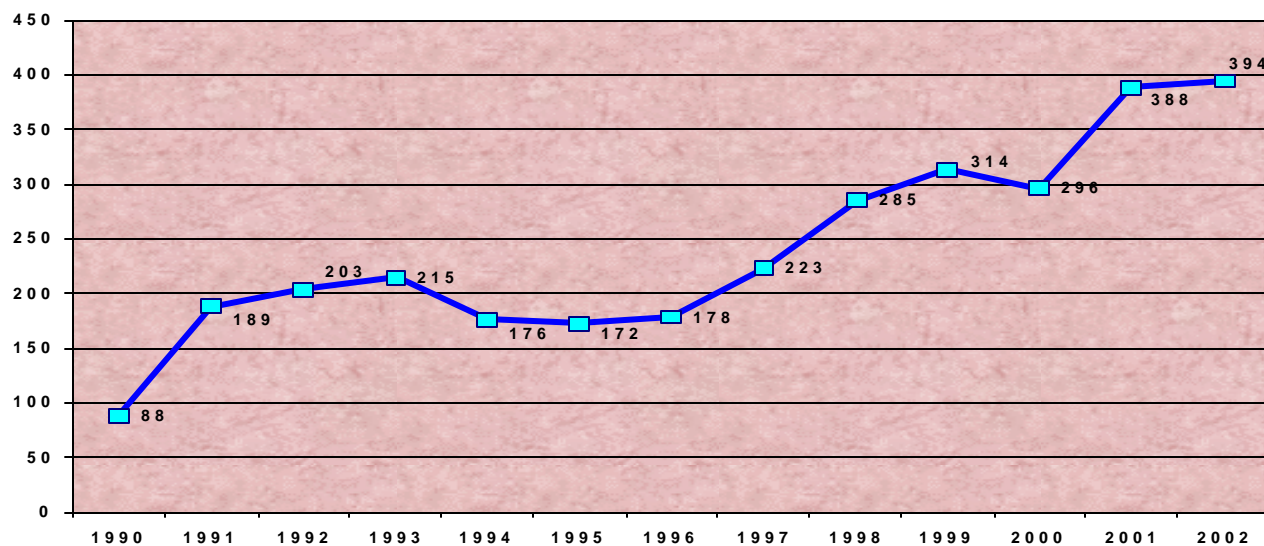


2002 Bankruptcy Trends Continued . . .

Chapter 11 Trend Line - 1990 to 2002



Ch. 13 Trend Line - 1990 to 2002



UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF RHODE ISLAND LOCAL BANKRUPTCY RULES AND FORMS 2003 EDITION

*LexisNexis is pleased to announce the publication of the 2003 edition of the
Local Rules for the U.S. Bankruptcy Court, District of Rhode Island.*

This edition includes amended rules and forms effective December 1, 2002.

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Rhode Island, and is the official version of the rules in use by the Bankruptcy Court.*

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